Presentation on Electronic Communications (EC BILL)

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Presentation on Regulations

Access to Cable Landing Sites
Consumer Protection
Wholesale Access
Guidelines on Market Access and Significant Market Power

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The Electronic Communications Bill

Presented by Deborah Bowers
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2017
PART 1:
1. Regulation of the electronic communications sector – beyond telecommunications.

- Embrace electronic communications, mergers, competition, consumer protection, number portability, etc.
PART 1

☐ 2. Net Neutrality - enable access

The EC Bill states our commitment to net neutrality.
PART 2: POWERS AND DUTIES OF THE MINISTER

☐ The powers of the Minister to grant exemptions from the requirements of the Bill remain.

☐ The Minister’s powers to set policy on electronic communications after consultation with ECTEL remains.

☐ The Minister’s powers to make regulations.
PART 3: THE NATIONAL TELECOMMUNICATIONS REGULATORY COMMISSION (NTRC)

☐ 1. The Commission is now a body corporate; can sue and be sued.

☐ 2. The Commission is empowered to investigate breaches.
PART 4: LICENSING, FREQUENCY AUTHORISATION, REGISTRATION AND APPROVAL

☐ 1. Prohibitions:

☐ From operating an electronic communications network or using frequency without a licence.
PART 4: LICENSING, FREQUENCY AUTHORISATION, REGISTRATION AND APPROVAL

☐ 1. Penalty for breach. 10 years jail OR

☐ 2. One Million Dollars
PART 4: LICENSING, FREQUENCY AUTHORISATION, REGISTRATION AND APPROVAL

☐ 3. Types of Licences:

(a) Individual – ECTEL - networks

(b) Class – NTRC – services - broadcasting

(c) Special Licences – e.g. cricket
PART 4: LICENSING AND FREQUENCY AUTHORISATION

☐ 4. MODIFICATION of licences and frequency authorisations.

☐ 5. TRANSFER of licences and frequency authorisations - prohibited.
PART 4: LICENSING AND FREQUENCY AUTHORIZATION

☐ 6. RESTRICTIONS on Change of control of licences and frequency authorisations - 90 days to seek written approval.

☐ 7. NOTIFICATION of Change of significant interest - 90 days notification and certificate of non-objection from Minister.

☐ 8. PENALTY for breach of Change of control provisions. Revocation of licence.
PART 4: LICENSING AND FREQUENCY AUTHORISATION

☐ 9. PENALTY for breach of NOTIFICATION of Change of significant interest: 3% of annual gross revenue.

☐ 10. PENALTY for breach of Certificate of non-objection - $1,000,000.00.

☐ 11. The 3-year rule in relation to licences applied for in any ECTEL jurisdiction.
PART 5: RIGHTS AND OBLIGATIONS OF LICENSEE AND FREQUENCY AUTHORISATION HOLDER

☐ 1. INTERCONNECTION AND ACCESS – mandatory for towers, ducts and poles.

☐ 2. COST OF INTERCONNECTION - to be borne by licensee seeking interconnection.

PART 5: RIGHTS AND OBLIGATIONS OF LICENSEE AND FREQUENCY AUTHORISATION HOLDER

☐ 4. LEASE OF CAPACITY- rules for disclosure of information when capacity is leased from a third party e.g. utility companies.

☐ 5. NET NEUTRALITY- permits reasonable network management by licensees.
PART 6: COMPETITION
PART 6: COMPETITION

☐ 1. REGULATION OF COMPETITION – by Commission. [Anti-competitive conduct]

☐ 2. MARKET ANALYSIS AND SIGNIFICANT MARKET POWER – to be performed by the Commission every 3 years.

☐ 3. ABUSE OF SIGNIFICANT MARKET POWER (SMP) – prohibited.
PART 6: COMPETITION

☐ 4. OBLIGATIONS ON LICENSEES HAVING SMP – provide interconnection, provide wholesale services.

☐ 5. ABUSE OF SIGNIFICANT MARKET POWER – prohibited.

☐ 6. POWERS OF THE COMMISSION UNDER THIS PART – carry out test of non-discrimination on a tariff, etc.
PART 7: UNIVERSAL SERVICE AND ACCESS FUND

☐ 1. POWER OF MINISTER – by ORDER to set the scope of the fund.

☐ 2. OBJECTIVE OF USAF - ensure efficient access to and use of electronic communications networks and services.
PART 8: OFFENCES

☐ 1. Connection of equipment to an electronic communications network - $20,000.00 or 2 years imprisonment.

☐ 2. Interference or destruction of network – $15,000.00 first time; $30,000.00 second offence.
PART 8: OFFENCES

☐ 3. Disclosure of personal information – $50,000.00 or 4 years imprisonment.

☐ 4. Giving false information to the Commission - $10,000.00 or 2 years.

☐ 5. Harmful Interference – initial $1000.00 but $5000.00 for every day the offence continues.
PART 10: DISPUTE RESOLUTION

☐ A party may file an application to the Commission to help resolve a dispute if it has not been resolved after 30 days with the consumer or 60 in relation to interconnection.
PART 11: TRIBUNAL

☐ Establishes a Tribunal to hear disputes.
PART 12: MISCELLANEOUS

☐ 1. COMMISSION TO RECEIVE FEES PAID UNDER THE ACT.

☐ 2. GENERAL PENALTY OF $20,000.00 for breach of any part of the Act which does not provide a penalty.

☐ 3. RIGHTS OF APPEAL
QUESTIONS & DISCUSSION

QUESTIONS?
The EC Bill is committed to net neutrality.
Net neutrality is an evolving subject.
Ongoing discussions on the principle in Europe and the US.
It has been proposed that the definition be removed from the Bill and be subject to a Ministerial Order to allow greater flexibility in this fluid environment.
NEW REGULATIONS TO IMPLEMENT COMPONENTS OF THE EC BILL

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ROLE OF THE NEW REGULATIONS IN IMPLEMENTING POLICY AND EC BILL

- Provide an updated “toolkit” (potential obligations) to impose on licensees to remedy market failures

- Protect consumers from consequences of non-competitive conditions

- Increase potential competition in telecoms markets

- Encourage investment by existing licensees and new entrants
C&W and Digicel are vertically integrated

- ECFS Cable
  - C&W Networks – HFC & Copper
  - Microwave and Fiber backbone, towers
  - Land-based Backbone Infrastructure - Fiber, MW + towers, poles
  - Retail Access Network, Local Loop

- GCN Cable
  - C&W-FLOW fixed and mobile – voice and data (business and residential)
  - FLOW cable TV
  - Digicel retail mobile voice and data (+ some fixed business)

Source: GVIC
Potential barriers to new entrants

- Strong market positions by C&W and Digicel in fixed broadband and cellular mobile markets
- Lack of cost-based competitive access to international connectivity capacity and terrestrial infrastructure
- Size of infrastructure investment
Submarine Cable Landing Station Access
Bandwidth is the fuel and catalyst for growth in the new global economy

As internet use increases, need for international connectivity increases – most content comes from outside borders

Subsea cables are most cost-effective option for coastal nations because it provides several fiber optic cable strands, each transmitting several Gigabits per second (Gbps)

C&W (ECFS) and Digicel (South Caribbean Fiber) duopoly in International Connectivity Capacity Market
Licensees who own or operator a cable landing station **must** —

- give access to their Cable Landing Station (CLS)
- give access to the bandwidth available at the CLS
- provide backhaul circuit between Cable Landing Station and premises of licensee requesting access (if technically feasible)
- provide physical or virtual colocation services
- publish a Reference Interconnection and Access Offer and submit for prior approval to NTRC
  - To include cost oriented prices, guarantees of service quality and penalties in case of default
- licensees to submit negotiated access agreements to NTRC for approval – ECTEL to resolve disputes
Network Infrastructure and Wholesale Access
Promote competition by defining access obligations to specific components of network which may be imposed on licensees holding Significant Market Power (SMP)

Source: GVIC
OBLIGATIONS ON LICENSEES WITH SMP

Licensee designated as having significant market power may be obligated to provide the following:

- Wholesale line rental
- Wholesale access at a fixed location including local loop unbundling, virtual unbundling and wholesale broadband access
- Access to passive backhaul including ducts and dark fibre
- Special wholesale services – components of a retail service
- Wholesale leased line
- Publication of Reference Access Offer (RAO) – approved by NTRC
  - RAO to include quality of service obligations and cost oriented rates
- Licensees to submit negotiated access agreements to NTRC for approval – ECTEL to resolve disputes
Guidelines on Market Analysis and Assessment of Significant Market Power (SMP)
There will be special obligations on licensees determined to have Significant Market Power

- Network infrastructure and wholesale access
- Retail price regulations

The EC Bill provides that regular market assessment be conducted to determine if licensees have SMP on specific markets

Guidelines set out the principles to be used by ECTEL and the NTRC in analyzing the markets for effective competition.
Consumer Protection Regulations
OBJECTIVES OF CONSUMER PROTECTION REGULATIONS

- Ensure reasonable quality of service at all locations
- Ensure access to emergency telecoms services
- Ensure persons with special needs can access ICT services
- Customer access to OTT services not blocked
- Ensure customers have access to reliable information and assistance
- Ensure advertising and sales practices do not mislead customers
- Ensure licensees have efficient procedures to resolve complaints
- Prevent unduly burdensome retail customer contract terms and conditions
- Ensure privacy and confidentiality of consumer personal data
Customers (including those with special needs) have a right to information on products and services that is clear and free from material omission.

The Commission to approve customer contracts which should specify the terms of service in a clear, understandable manner, and should not include automatic renewal clauses (customer lock-in).

Licensees must provide free bills at least once a month.

For prepaid services, a licensee must publish the terms and conditions on its website.
Main provision of Consumer Protection Regulations (cont’d)

- No misleading advertising claims. No unverifiable claims on broadband speed and network coverage.
- Terms like free and unlimited should be qualified,
- Sales representatives should be well trained.
- Licensees must protect customer personal information.
- Licensee must have efficient complaints handing procedures. Licensee must have toll-free customer care telephone service.
- Customers who complain should be treated fairly and with courtesy.
THANK YOU
REGULATORY AGENDA 2016 – 2017

1. Roaming
   1. Roaming Bill (Consumer Protection, emergency roaming
   2. Regulations (Pricing, Billing
2. Interconnection
   1. Models for New Interconnection rates
3. Number Portability
   1. Preparation by Service Providers for
   2. Licence for Clearing House
4. Tribunal Rules (Under EC Bill)
5. Licencing (Renewal of operating licences/recommendations for modified terms
6. Regulations
   1. Retail Tariff
   2. Universal Service
   3. Dispute Resolution
   4. Quality of Service